

Patricia Cunningham Plaintiff vs. Hologic Inc Defendant

Broward County Case Number: CACE22010446
State Reporting Number: 062022CA010446AXXXCE
Court Type: Civil
Case Type: Contract and Indebtedness
Incident Date: N/A
Filing Date: 07/18/2022
Court Location: Central Courthouse
Case Status: Pending
Magistrate Id / Name: N/A
Judge ID / Name: 08 Haimes, David A.

- Party(ies)

Total: 2

Party Type	Party Name	? Address	? Attorneys / Address ★ Denotes Lead Attorney
Plaintiff	Cunningham, Patricia		★ Duffie, Allison B Retained Bar ID: 649902 DUFFIE LAW, PLLC 2234 N. Federal Highway #1196 Boca Raton, FL 33431 Status: Active
Defendant	Hologic Inc		






- Disposition(s)

Total: 0

Date	Statistical Closure(s)		
Date	Disposition(s)	View	Page(s)

- Event(s) & Document(s)

Total: 6

Date	Description	Additional Text	View	Pages
07/28/2022	Waiver of Service of Process	Party: <i>Defendant</i> Hologic Inc		2
07/22/2022	eSummons Issuance	HOLOGIC, INC		1
07/18/2022	Per AOSC20-23 Amd12, Case is determined General			
07/18/2022	Civil Cover Sheet	Amount: \$75,001.00		3
07/18/2022	Complaint (eFiled)	Party: <i>Plaintiff</i> Cunningham, Patricia		5
07/18/2022	Clerk's Certificate of Compliance W-2020-73CIV/2020-74-UFC	NONE		1

— Hearing(s)

Total: 0

There is no Disposition information available for this case.

— Related Case(s)

Total: 0

There is no related case information available for this case.

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

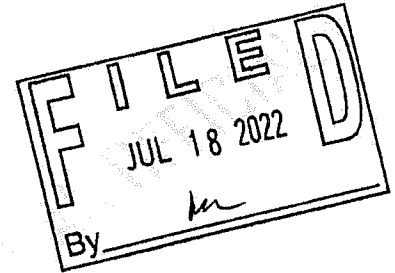
Patricia Cummingham
Plaintiff

Case No: 22-10446

Judge Division: 08

VS

Hologic Inc.
Defendant



CLERK'S CERTIFICATE OF COMPLIANCE

I hereby certify that pursuant to Administrative Order, No. 2020-73Civ/2020-74-UFC:
"ADMINISTRATIVE ORDER DIRECTING CLERK OF COURTS WITH REGARD TO
DISMISSED CIVIL OR FAMILY CASES",

The Clerk has conducted a search for all previous existing civil cases related to
these two parties.

Listed below are all the aforementioned related cases:

Brenda D. Forman
Circuit and County Courts

By: [Signature]
Deputy Clerk

IN THE SEVENTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR BROWARD COUNTY, FLORIDA

PATRICIA CUNNINGHAM,

CASE NO.:

Plaintiff,

v.

HOLOGIC, INC.,

Defendant.

COMPLAINT

PATRICIA CUNNINGHAM, by and through the undersigned attorney, hereby brings these claims against HOLOGIC, INC., and alleges:

GENERAL ALLEGATIONS

1. This is an action for damages in excess of \$30,0000.00, exclusive of interest, costs, and attorney's fees.
2. All conditions precedent, if any, have occurred or been performed.
3. At all material times, Plaintiff was a resident of Broward County, Florida, and is otherwise *sui juris*.
4. Defendant has a principal place of business located at 250 Campus Drive, Marlborough, MA 01752, but is licensed to do and does business in Broward County, Florida.
5. Jurisdiction is proper in this court pursuant to Florida law.
6. Venue is proper because Plaintiff is located in Broward County and the substantial part, if not all, of the events giving rise to this cause of action occurred in Broward County.
7. At all times material hereto, Plaintiff was employed with Defendant.

Complaint
Page 1 of 5

8. Plaintiff brings claims that arise under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the Florida Civil Rights Act, Fla. Stat. 769, *et. seq.* for disparate treatment and discrimination.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Plaintiff has exhausted all administrative remedies prior to the filing of this action.

10. In particular, Plaintiff timely filed a charge of discrimination. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ["EEOC"]. A true and correct copy of said Charge is attached as Exhibit "A".

FACTUAL ALLEGATIONS

11. Plaintiff was a well-regarded employee of Defendant for approximately 13 years until her termination on May 21, 2021.

12. Defendant is a medical technology company primarily focused on women's health and sells medical devices for diagnostics, surgery and medical imaging.

13. Plaintiff became employed by Defendant in October 2007, after Defendant merged with Cytac, the organization for whom Plaintiff was working at the time.

14. In 2018, Plaintiff was promoted to Account Executive for the Breast and Skeletal Health Solutions division in Miami, Florida.

15. Defendant required its salespeople to meet certain quotas. Quotas were based on three (3) factors (capital, disposables and service). Throughout the course of her employment, Plaintiff was instructed that it wasn't important how employee quotas are met, meaning an employee could potentially sell all disposables to hit his or her quota without repercussion.

16. Plaintiff was terminated allegedly for her capital performance. According to the latest percentage to quota in May 2021 for Defendant's third quarter, Plaintiff was at 133%. In the second quarter, Plaintiff finished at 119% and 78.5% in the first quarter (keeping in mind many of the hospitals and breast centers were, and still are, coming back from the effects of COVID). In fact, immediately prior to her termination, Plaintiff secured a \$2.2 million booking deal for Defendant.

17. During the course of her employment, Plaintiff never received any formal negative write-ups or Performance Improvement Plans. To that end, Plaintiff was repeatedly honored and recognized for her job performance, and was one of the company's top performers.

18. The longer Plaintiff was in her position, the more often she was asked when she planned on retiring and comments were made about her age.

19. Most egregiously, however, Plaintiff's position was not eliminated; rather, she was replaced by an individual significantly younger.

20. On May 21, 2022, Plaintiff was terminated for her alleged performance. This, however, is mere pretext.

21. At her time of termination, and according to Defendant's own reports, Plaintiff's overall percent to quota was 133.1%. Please see attached report sent out the end of May 2021 showing CP's overall YTD result at 133.1%.

22. Other employees, outside of Plaintiff's protected class, who performed at this level were not terminated.

23. Plaintiff filed a Charge of Discrimination on or about November 9, 2021, sounding in age discrimination.

COUNT I
DISCRIMINATION IN VIOLATION OF TITLE VII
OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. §§2000E, et seq.

24. Plaintiff re-alleges and references each and every allegation contained in the preceding paragraphs 1 through 23, and incorporates the same as if set forth fully herein.

25. Plaintiff is a protected individual under Title VII.

26. Plaintiff was qualified for her job.

27. Despite Plaintiff's qualifications, Plaintiff was subject to adverse employment action by the Defendant, while other individuals engaging in similar activity but outside Defendant's protected class were not.

28. Plaintiff was discriminated against on the basis of her age.

WHEREFORE, CUNNINGHAM prays that judgment be entered in her favor against the Defendant, as follows: That CUNNINGHAM be awarded general and compensatory damages and reinstatement, front pay and back pay, and prejudgment interest; that CUNNINGHAM be awarded reasonable attorney's fees and costs of suit pursuant to Title VII of the Civil Rights Act of 1964, and that CUNNINGHAM be awarded such other relief as the Court deems just and proper.

COUNT II
DISCRIMINATION IN
VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT §760

29. Plaintiff re-alleges and references each and every allegation contained in the preceding paragraphs 1 through 23, and incorporates the same as if set forth fully herein.

30. Plaintiff is a protected individual under the Florida Civil Rights Act.

31. Plaintiff was qualified for her job.

32. Despite Plaintiff's qualifications, Plaintiff was subject to adverse employment action by the Defendant, while other individuals engaging in similar activity but outside Defendant's protected class were not.

33. Plaintiff was discriminated against on the basis of her age.

WHEREFORE, CUNNINGHAM prays that judgment be entered in his favor against the Defendant, as follows: That CUNNINGHAM be awarded general and compensatory damages and reinstatement, front pay and back pay, and prejudgment interest; that CUNNINGHAM be awarded reasonable attorney's fees and costs of suit pursuant to the Florida Civil Rights Act and Florida Statute § 760; and that CUNNINGHAM be awarded such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

CUNNINGHAM demands a trial by jury for all matters so triable.

Dated this 18th day of July, 2022.

DUFFIE LAW, PLLC
2234 N. Federal Highway
Suite 1196
Boca Raton, FL 33431
Telephone: (561) 440-8150

s/Allison B. Duffie
Allison B. Duffie, Esq.
Florida Bar No. 649902
Primary e-mail: allison@duffie.law
Secondary e-mail: legalassistant@duffie.law

FORM 1.997. CIVIL COVER SHEET

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting uniform data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

I. CASE STYLE

IN THE CIRCUIT/COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

Patricia Cunningham
Plaintiff

Case # _____
Judge _____

vs.

Hologic Inc
Defendant

II. AMOUNT OF CLAIM

Please indicate the estimated amount of the claim, rounded to the nearest dollar. The estimated amount of the claim is requested for data collection and clerical processing purposes only. The amount of the claim shall not be used for any other purpose.

- ☐ \$8,000 or less
☐ \$8,001 - \$30,000
☐ \$30,001- \$50,000
☐ \$50,001- \$75,000
☒ \$75,001 - \$100,000
☐ over \$100,000.00

III. TYPE OF CASE (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

CIRCUIT CIVIL

- ☐ Condominium
- ☒ Contracts and indebtedness
- ☐ Eminent domain
- ☐ Auto negligence
- ☐ Negligence—other
 - ☐ Business governance
 - ☐ Business torts
 - ☐ Environmental/Toxic tort
 - ☐ Third party indemnification
 - ☐ Construction defect
 - ☐ Mass tort
 - ☐ Negligent security
 - ☐ Nursing home negligence
 - ☐ Premises liability—commercial
 - ☐ Premises liability—residential
- ☐ Products liability
- ☐ Real Property/Mortgage foreclosure
 - ☐ Commercial foreclosure
 - ☐ Homestead residential foreclosure
 - ☐ Non-homestead residential foreclosure
 - ☐ Other real property actions
- ☐ Professional malpractice
 - ☐ Malpractice—business
 - ☐ Malpractice—medical
 - ☐ Malpractice—other professional
- ☐ Other
 - ☐ Antitrust/Trade regulation
 - ☐ Business transactions
 - ☐ Constitutional challenge—statute or ordinance
 - ☐ Constitutional challenge—proposed amendment
 - ☐ Corporate trusts
 - ☐ Discrimination—employment or other
 - ☐ Insurance claims
 - ☐ Intellectual property
 - ☐ Libel/Slander
 - ☐ Shareholder derivative action
 - ☐ Securities litigation
 - ☐ Trade secrets
 - ☐ Trust litigation

COUNTY CIVIL

- ☐ Small Claims up to \$8,000
- ☐ Civil
- ☐ Real property/Mortgage foreclosure

- ☐ Replevins
- ☐ Evictions
 - ☐ Residential Evictions
 - ☐ Non-residential Evictions
- ☐ Other civil (non-monetary)

COMPLEX BUSINESS COURT

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes ☐ No ☒

IV. REMEDIES SOUGHT (check all that apply):

- ☒ Monetary;
- ☐ Nonmonetary declaratory or injunctive relief;
- ☐ Punitive

V. NUMBER OF CAUSES OF ACTION: []

(Specify)

2

VI. IS THIS CASE A CLASS ACTION LAWSUIT?

- ☐ yes
- ☒ no

VII. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?

- ☒ no
- ☐ yes If "yes," list all related cases by name, case number, and court.

VIII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- ☒ yes
- ☐ no

IX. DOES THIS CASE INVOLVE ALLEGATIONS OF SEXUAL ABUSE?

- ☐ yes
- ☒ no

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature: s/ Allison B Duffie
Attorney or party

Fla. Bar # 649902
(Bar # if attorney)

Allison B Duffie
(type or print name)

07/18/2022
Date

Filing # 153887676 E-Filed 07/22/2022 02:14:45 PM

CACE-22-010446

☒ IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

DIVISION <input checked="" type="checkbox"/> CIVIL <input type="checkbox"/> OTHER	ALIAS SUMMONS	CASE NUMBER CACE22-010446
PLAINTIFF PATRICIA CUNNINGHAM	VS. DEFENDANT HOLOGIC, INC.	CLOCK IN

THE STATE OF FLORIDA:

To Each Sheriff of the State:

You ARE COMMANDED to serve this alias summons and a copy of the complaint or petition in this action on defendant(s):

HOLOGIC, INC.
c/o CT CORPORATION SYSTEM, Registered Agent
1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324

Each defendant is required to serve written defenses to the complaint, interrogatories and request for production or petition on Plaintiff's Attorney:

Whose address is:

Allison B. Duffie, Esq.
Duffie Law, PLLC
2234 North Federal Highway, Suite 1196
Boca Raton, Florida 33431
Telephone: (561) 440-8150

within twenty (20) days after service of this alias summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

CLERK OF COURTS

BY: 
DEPUTY

DATE

JUL 25 2022

Received this alias summons _____, 202____, and served the same at _____ o'clock _____ M., _____, 202____, by delivering a true copy thereof with a copy of the Complaint or initial pleading

to: _____ the within Defendant

Copy return _____ Sheriff of _____ County, Florida.

Service _____ by: _____

Deputy Sheriff

_____ Miles

COMPOSITE EXHIBIT A

IN THE SEVENTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR BROWARD COUNTY, FLORIDA

PATRICIA CUNNINGHAM,

CASE NO.: CACE22-010446

Plaintiff,

v.

HOLOGIC, INC.,

Defendant.

WAIVER OF SERVICE OF PROCESS

On behalf of Defendant HOLOGIC, INC. ("Defendant"), I acknowledge receipt of your request that Defendant waive service of process in the lawsuit of *Patricia Cunningham v. Hologic, Inc.*, currently pending in the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida, Case No. CACE22-010446. I acknowledge receipt of a copy of the Complaint and of this waiver (on July 28, 2022).

On behalf of Defendant, I agree to save the cost of service of process and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Fla. R. Civ. P. 1.070.

If I am not the Defendant to whom the notice of lawsuit and waiver of service of process was sent, I declare that my relationship to the entity or person to whom the notice was sent and my authority to accept service on behalf of such person or entity is as follows: I am an attorney representing Defendant, and I have authority to accept service.

Defendant acknowledges that it will retain all defenses and objections to the lawsuit or to the jurisdiction or venue of the court except for any objections based on defect in the summons or in the service of the summons.

COMPOSITE EXHIBIT A

On behalf of Defendant, I understand that a judgment may be entered against Defendant, if a written response is not served upon you within 60 days from the date I received the notice of lawsuit and request for waiver of service of process (*i.e.*, by September 24, 2022).

DATED this 28th day of July 2022.

Respectfully submitted,

LITTLER MENDELSON, P.C.
Wells Fargo Center
333 S.E. 2nd Avenue, Suite 2700
Miami, Florida 33131
Tel: (305) 400-7500
Fax: (305) 603-2552


By: 

Aaron Reed
Florida Bar No. 0557153
Primary E-mail:
Secondary E-mail:

Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July 2022, a true and correct copy of the foregoing has been e-filed with the Florida Court E-Filing portal, and served, via e-mail and U.S. Mail upon: Allison B. Duffie, Esq., DUFFIE LAW, PLLC, 2234 N. Federal Highway, Suite 1196, Boca Raton, Florida 33431; E-mail:


Aaron Reed

4867-3543-0700.1